

Application No.: 10/620,312
Filing Date: July 14, 2003

REMARKS

Pending Claims

Claims 7-10 are cancelled. Claims 1-6 remain pending in the application.

Provisional Double Patenting Rejections

The Examiner has provisionally rejected Claims 1-6 on the ground of nonstatutory obviousness-type double patenting in light of Claims 1-8, 10-29, 49 and 50 of co-pending application no. 09/804,457 ("the '457 application"), which has now issued as U.S. Patent Number 7,399,599. Applicants disagree with the Examiner's rejection.

The present application requires the application of two pulse series with a pause in between. Each pulse series is multiple pulses, and the pause is longer than the inter-pulse spacing in each series. This limitation is not taught or suggested in the 7,399,599 claims. It is thus respectfully submitted that the claims of the present application are patentably distinct from the claims of U.S. Patent 7,399,599.

The Examiner appears to take the position that obviousness type double patenting exists because the claims of 7,399,599 "encompass" the claimed pause between series of pulses. To support an obviousness type double patenting rejection, the claims of this application must be anticipated by or obvious over the claims of 7,399,599. (M.P.E.P. 804 II B 1). No rationale demonstrating that the pause as claimed in this application is obvious over the claims of 7,399,599 has been presented by the Examiner. The applicant respectfully requests that the double patenting rejection be withdrawn.

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CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, arguments in support of the patentability of the pending claim set are presented above. In light of these remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 

Thomas R. Arno
Registration No. 40,490
Attorney of Record
Customer No. 20,995
(619) 235-8550

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